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BOOK REVIEWS

La Responsabilité Civile dans les Transports Aériens, Intérieurs et Internationaux (Civil Liability in Air Transportation, National and International). By Jean Van Houtte, professor in the Universities of Ghent and Liège. Pp. 224. Awarded First Prize by the Faculty of Northwestern University in the 1937 Charles Clarence Linthicum Foundation Competition. Paris, Librairie Générale de Droit et de Jurisprudence; Louvain, Edition de la Société d'Études Morales, Sociales, et Juridiques; vol. 43 in the Lambert Monographs of the Lyon Institute of Comparative Law. 1940. Pp. 224.

This excellent survey of the entire law and practice of civil liabilities in aviation, which received the first prize in the Linthicum Foundation competition of 1939, has been brought down to date with citation of the literature of the intervening period, and now appears in its original language. Its prompt translation and publication in English were prevented by unavoidable circumstances; but its value is such that it ought to find a place on every reference-shelf of aviation law. Meanwhile, a companion book, which received second prize in the same competition (and only narrowly escaped receiving the first prize), has appeared in English: Daniel Goedhuis, "National Air Legislations and the Warsaw Convention" (The Hague, Nijhoff, 1937).

Professor Van Houtte's treatise, after a brief introduction on the development of commercial aviation (here listing usefully, p. 12, the names and routes of the principal airlines of all countries), divides into four Parts: I, Carrier's Liability for Damage to Passengers and Goods; II, Operator's Liability to Personnel; III, Operator's Liability for Ground Damage and to Third Persons in general; IV, Insurance in favor of Injured Persons. Under each of these four headings, he deals first with the national laws, and then with the international conventions.

In expounding the national laws the author does not undertake to catalogue every nation's detailed provisions but only to point out typical provisions. For example, under Limitation of Amount of Liability (p. 96), he gives as samples the variant provisions in the laws of Germany, France, Poland, Danzig, Yugoslavia, Mexico, Belgium, and Netherlands; while under Carrier's Negligence (p. 68), he comments on the laws of France, Italy, and (most fully) England and the United States. Here it may also be noted that the

author has had full access to our law-sources, for he cites not only the Aviation Reports, but also articles in the *Journal of Air Law and Commerce*, the *Air Law Review*, *Zollman's Cases*, and the *Journal of the American Bar Association*. At every point also are cited the controlling clauses of the standard contract of the International Air Transport Association (I. A. T. A.); which is important because of the prospective entrance of the Big Four airlines of the United States into that Association.

The most interesting chapter to the present reviewer is Chap. I of Part IV dealing with securities for the discharge of the liability of the operator to persons having a cause of action, and herein of compulsory insurance. The author asks (p. 194): "Should the airline operators be compelled to provide insurance against ground damage? Assuredly. Though legislation should interfere as little as possible in the relations between the carrier and his patrons (who can better than any one else see to the protection of their rights), yet for those who become the victims [on the ground] of aviation accidents, the law should require the operator to provide security in advance". We do not see why this advance insurance should not apply equally to passengers and shippers, who are equally unable to prove the cause of the injury. The latter class, to be sure, may possibly by paying a higher rate, secure absolute liability; but what does technical liability amount to, if the operator is financially incompetent? Moreover, the airline carriers are not the parties chiefly to be considered, first, because their concern for their reputation induces them to make adequate settlements, and secondly because their accidents are relatively few. The parties whose liability needs specially to be guaranteed are the private and commercial flyers, first, because they have ten times the accidents of the airlines, and secondly because they are generally unable financially to cover their liabilities.

In this connection we note that the author has added to the usefulness of his treatise by including (pp. 197, 215) the text of the international protocol of September 29, 1938, supplementing the Rome Convention of 1933 by settling the details of the compulsory insurance contract protecting claims for ground damage. This supplementary convention represents the culmination of a long debate between the I. A. T. A. and the C. I. T. E. J. A., and it is to be hoped that the United States Government will now decide to become a party to it.

John H. Wigmore